

Court No. - 21

Case :- WRIT - C No. - 5963 of 2018

Petitioner :- Vijay Pal And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Vinod Sinha, Mahesh Sharma, Vindhya Vashini Prasad Rai

Counsel for Respondent :- C.S.C., Ajay Singh, Ambrish Shukla, Amrendra Nath Singh, Jagannath Maurya, Suresh C. Dwivedi

Hon'ble Manoj Kumar Gupta, J.

Hon'ble Donadi Ramesh, J.

1. Heard learned counsel for the petitioners, Shri Rajiv Gupta, learned Additional Chief Standing Counsel for the State-respondents and Shri H.N. Singh, learned Senior Counsel assisted by Shri Ambrish Shukla, Advocate for respondent No. 4.
2. Present petition has been filed praying for a writ of mandamus directing the respondents to denotify land of Khasra No. 327m area 2 Bigha 18 Biswa 18 Biswansi Village Noor Nagar, Tehsil Loni, District Ghaziabad in exercise of power under Section 48 of the Land Acquisition Act, 1894 (for short 'Act, 1894'). It has also been prayed that the entire acquisition proceedings be declared to have lapsed under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'new Act'). The petitioners have also prayed for a mandamus directing the Revenue Authorities to strike off the name of UPSIDC from the revenue record and enter the name of the petitioners and to decide their representations dated 22.12.2016 and 27.06.2017.
3. In nutshell the case of the petitioners is that although the aforesaid land as well as surrounding land of six villages was notified for acquisition by the respondents for the benefit of UPSIDC (respondent No. 4) by taking recourse to proceedings under the Act, 1894 way back in the year 1971 and 1973 but subsequently the UPSIDC had itself requested the State Government to denotify the land of all the aforesaid villages. This

decision was taken by UPSIDC in view of the fact that acquisition proceedings had remained in abeyance in pursuance of radiogram of the State Government dated 19.12.1994.

4. It is the case of the petitioners that thereafter they had continued in actual physical possession of the aforesaid land. The respondents had not declared any award till date. The affected persons have approached this Court from time to time by way of separate petitions and the writ petitions filed by them were disposed of with direction to the State Government to consider their case for denotification under Section 48 of the Act, 1894. One such writ petition is Writ-C No. 40753 of 2016 which was disposed of vide order dated 3.10.2016 and in terms whereof various other petitions were disposed of. The State Government in compliance of the orders passed in those petitions had issued separate notifications from time to time under Section 48 of the Act, 1894 denotifying the land of the persons who had approached this Court. The petitioners were therefore compelled to file their separate petition for the relief noted above.

5. On 25.04.2023, a Coordinate Bench of this Court passed a detailed order requiring the respondents to file supplementary counter affidavit bringing on record correct and complete facts pertaining to the acquisition in question. In compliance of the said direction, the State has filed counter affidavit wherein he has taken the stand that it had delivered physical possession of the acquired land to the fourth respondent on 21.10.1974. It is also stated in the supplementary counter affidavit filed by the State that till date it has not received any proposal from respondent No. 4 for denotifying the land. However, it is admitted that all acquisition proceedings had remained in abeyance in pursuance of radiogram dated 19.12.1974 and no award has been made till date.

6. Respondent No. 4 has filed a separate counter affidavit in which it had taken the stand that it was not delivered actual physical possession of the acquired land till date. The tenure holders continue to be in possession of their respective lands. The acquisition proceedings were kept in

abeyance in view of the directions issued by the State Government itself. In the aforesaid circumstances, the UPSIDC in its Board meeting held on 1 June 1977 bearing in mind the fact that it was not possible for it to obtain actual physical possession in near future decided not to proceed any further with the acquisition. A letter was sent to the State Government on 03.08.1977 enclosing therewith copy of the resolution of the Board dated 01.06.1977 and requesting the State Government to denotify the land. The copy of the said letter has been annexed along with supplementary counter affidavit. It is also stated in the counter affidavit that thereafter repeated letters were sent to the State Government but the subject land has not been denotified by the State Government till date. In para-11 of the supplementary counter affidavit, it is categorically asserted that UPSIDC will have no objection in case the land is denotified. In para-12 of the counter affidavit, it is stated that UPSIDC has no objection in case the name of the original owners is mutated in the revenue record in place of UPSIDC. In para-13, it is asserted that the facts of the present case would bring the matter within purview of Section 48 the Act, 1894 and for which request had been made to the State Government time and again.

7. Shri H.N. Singh, learned Senior Counsel appearing for UPSIDC has taken the same stand before this Court and states that UPSIDC will have no objection in case the land is denotified. He fairly states that since no award has been made for the subject land till date, therefore in the eyes of law, the proceedings have already lapsed. He submits that the aforesaid legal position emerges from the provisions of Section 11-A of the Act, 1894 and Section 25 read with section 24 of the new Act. He also states that since actual physical possession was never delivered to the acquiring body, therefore, it had never vested in the State or UPSIDC.

8. In view of the aforesaid categorical stand of respondent No. 4 and the admitted factual position that no award has been made in respect of subject land till date, we are of the opinion that the proceedings have

already lapsed¹ and therefore it would not be necessary to direct the State Government to issue any notification under Section 48 of the Act, 1894. In consequence, we direct the Tehsil Authorities to examine the claim of the petitioners for mutation of their names in the revenue records treating the acquisition proceedings to have lapsed, within a period of eight weeks from the date of communication of the instant order.

9. The writ petition stands disposed of accordingly.

Order Date :- 16.11.2023

Mukesh Kr.

(Donadi Ramesh,J.) (Manoj Kumar Gupta,J.)

¹ **2022(2) SCC 772**, Executive Engineer, Gosikhurd Project Ambadi, Maharashtra Vidarbha Irrigation Development Corporation vs. Mahesh and others.